

AMENDED IN ASSEMBLY MAY 20, 2003
AMENDED IN ASSEMBLY APRIL 29, 2003
AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1026

Introduced by Assembly Members Levine and Runner

February 20, 2003

~~An act to add Section 1463.29 to the Penal Code, and to amend~~ *An act to amend Sections 23575 and 23578 of, and to add Section 23587 to, the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1026, as amended, Levine. Vehicles: driving-under-the-influence: penalties.

(1) Existing law requires a court to consider a concentration of alcohol in the person's blood of 0.20% or more, by weight, or the refusal of the person to take a chemical test as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation, when a person is convicted of violating specified driving-under-the-influence provisions (DUI).

This bill would decrease the required blood-alcohol concentration from 0.20% to 0.15%. The bill would make conforming changes in other, related provisions of law.

(2) Existing law imposes various fines and terms of imprisonment for a violation of specified DUI provisions.

This bill would ~~require~~ *authorize* the court to double the fine that otherwise would have been imposed for certain DUI convictions, if the court finds that the defendant had a blood-alcohol concentration of 0.15%, or more, by weight at arrest.

~~The bill would require 50% of the amount of the doubled DUI fines to be kept separate and apart from any other fines and forfeitures and be distributed by the county treasurer, as soon as practicable after their receipt, with 50% to be deposited in a special county account that would be used only for the purposes of funding DUI programs licensed under existing law, as specified, and 50% to be deposited in the county's Maddy Emergency Medical Services (EMS) Fund, as specified, and expended only for the purposes authorized for the money in that fund. Because the bill thereby would impose additional duties upon the county treasurer, it would establish a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Driving under the influence of alcohol or drugs, or a
- 4 combination of alcohol and drugs (DUI), continues to cause
- 5 devastating monetary and intangible damages to the residents of
- 6 California.
- 7 (b) The number of traffic fatalities related to alcohol in
- 8 California has increased three years in a row.



1 (c) Each year alcohol-related crashes in California cost the
2 public an estimated \$4 billion in monetary costs and \$7 billion in
3 quality of life losses.

4 (d) Repeat DUI offenders and those offenders with high
5 blood-alcohol concentrations (over 0.15 percent, by weight) are
6 much more likely to be involved in fatal crashes.

7 (e) Accordingly, it is the intent of the Legislature in enacting
8 this act to sanction with greater severity those offenders who are
9 most likely to cause the greatest damage and loss of life and to
10 reduce the number of alcohol-related crashes and fatalities in
11 California.

12 ~~SEC. 2.—Section 1463.29 is added to the Penal Code, to read:~~

13 ~~1463.29.—Notwithstanding Section 1463, all of the funds that~~
14 ~~are subject to subdivision (b) of Section 23587 of the Vehicle Code~~
15 ~~shall be kept separate and apart from any other fines and forfeitures~~
16 ~~and shall be distributed by the county treasurer, as soon as~~
17 ~~practicable after their receipt, as follows:~~

18 (a) ~~Fifty percent shall be deposited in a special county account~~
19 ~~that may be used only for the following purposes:~~

20 (1) ~~In a county that does not have a driving-under-the-influence~~
21 ~~program licensed under Section 11836 of the Health and Safety~~
22 ~~Code, to fund the development, implementation, operation, and~~
23 ~~maintenance of that program.~~

24 (2) ~~In a county that has only an 18-month~~
25 ~~driving-under-the-influence program, to fund the development,~~
26 ~~implementation, operation, and maintenance of a 30-month~~
27 ~~driving-under-the-influence program licensed under Section~~
28 ~~11836 of the Health and Safety Code.~~

29 (b) ~~Fifty percent shall be deposited in the county's Maddy~~
30 ~~Emergency Medical Services (EMS) Fund established under~~
31 ~~Section 1797.98a of the Health and Safety Code, and may be~~
32 ~~expended only for the purposes authorized for the money in that~~
33 ~~fund.~~

34 ~~SEC. 3.—~~

35 *SEC. 2.* Section 23575 of the Vehicle Code is amended to
36 read:

37 23575. (a) (1) In addition to any other provisions of law, the
38 court may require that a person convicted of a first offense
39 violation of Section 23152 or 23153 install a certified ignition
40 interlock device on any vehicle that the person owns or operates

1 and prohibit that person from operating a motor vehicle unless that
2 vehicle is equipped with a functioning, certified ignition interlock
3 device. The court shall give heightened consideration to applying
4 this sanction to first offense violators with 0.15 percent or more,
5 by weight, of alcohol in his or her blood at arrest, or with two or
6 more prior moving traffic violations, or of persons who refused the
7 chemical tests at arrest. If the court orders the ignition interlock
8 device restriction, the term shall be determined by the court for a
9 period not to exceed three years from the date of conviction. The
10 court shall notify the department, as specified in subdivision (a) of
11 Section 1803, of the terms of the restrictions in accordance with
12 subdivision (a) of Section 1804. The department shall place the
13 restriction in the person's records in the department.

14 (2) The court shall require any person convicted of a violation
15 of Section 14601.2 to install an ignition interlock device on any
16 vehicle that the person owns or operates and shall prohibit the
17 person from operating a motor vehicle unless the vehicle is
18 equipped with a functioning, certified ignition interlock device.
19 The term of the restriction shall be determined by the court for a
20 period not to exceed three years from the date of conviction. The
21 court shall notify the department, as specified in subdivision (a) of
22 Section 1803, of the terms of the restrictions in accordance with
23 subdivision (a) of Section 1804. The department shall place the
24 restriction in the person's records in the department.

25 (b) The court shall include on the abstract of conviction or
26 violation submitted to the department under Section 1803 or 1816,
27 the requirement and term for the use of a certified ignition
28 interlock device. The records of the department shall reflect
29 mandatory use of the device for the term ordered by the court.

30 (c) The court shall advise the person that installation of an
31 ignition interlock device on a vehicle does not allow the person to
32 drive without a valid driver's license.

33 (d) Any person whose driving privilege is restricted by the
34 court pursuant to this section shall arrange for each vehicle with
35 an ignition interlock device to be serviced by the installer at least
36 once every 60 days in order for the installer to recalibrate and
37 monitor the operation of the device. The installer shall notify the
38 court if the device is removed or indicates that the person has
39 attempted to remove, bypass, or tamper with the device, or if the
40 person fails three or more times to comply with any requirement



1 for the maintenance or calibration of the ignition interlock device.
2 There is no obligation for the installer to notify the court if the
3 person has complied with all of the requirements of this article.

4 (e) The court shall monitor the installation and maintenance of
5 any ignition interlock device restriction ordered pursuant to
6 subdivision (a) or (l). If any person fails to comply with the court
7 order, the court shall give notice of the fact to the department under
8 Section 40509.1.

9 (f) (1) Pursuant to Section 13352, if any person is convicted of
10 a violation of Section 23152 or 23153, and the offense occurred
11 within seven years of one or more separate violations of Section
12 23152 or 23153 that resulted in a conviction, the person may apply
13 to the department for a restricted driver's license under Section
14 13352 that prohibits the person from operating a motor vehicle
15 unless that vehicle is equipped with a functioning ignition
16 interlock device, certified under Section 13386. The restriction
17 shall remain in effect for at least the remaining period of the
18 original suspension or revocation and until all reinstatement
19 requirements in Section 13352 are met.

20 (2) Pursuant to subdivision (g), the department shall
21 immediately terminate the restriction issued under Section 13352
22 and shall immediately suspend or revoke the privilege to operate
23 a motor vehicle of any person who attempts to remove, bypass, or
24 tamper with the device, who has the device removed prior to the
25 termination date of the restriction, or who fails three or more times
26 to comply with any requirement for the maintenance or calibration
27 of the ignition interlock device ordered under Section 13352. The
28 privilege shall remain suspended or revoked for the remaining
29 period of the originating suspension or revocation and until all
30 reinstatement requirements in Section 13352 are met.

31 (g) Any person whose driving privilege is restricted by the
32 department under Section 13352 shall arrange for each vehicle
33 with an ignition interlock device to be serviced by the installer at
34 least once every 60 days in order for the installer to recalibrate the
35 device and monitor the operation of the device. The installer shall
36 notify the department if the device is removed or indicates that the
37 person has attempted to remove, bypass, or tamper with the device,
38 or if the person fails three or more times to comply with any
39 requirement for the maintenance or calibration of the ignition
40 interlock device. There is no obligation on the part of the installer

1 to notify the department or the court if the person has complied
2 with all of the requirements of this section.

3 (h) Nothing in this section permits a person to drive without a
4 valid driver's license.

5 (i) The department shall include information along with the
6 order of suspension or revocation for repeat offenders informing
7 them that after a specified period of suspension or revocation has
8 been completed, the person may either install an ignition interlock
9 device on any vehicle that the person owns or operates or remain
10 with a suspended or revoked driver's license.

11 (j) Pursuant to this section, out-of-state residents who
12 otherwise would qualify for an ignition interlock device restricted
13 license in California shall be prohibited from operating a motor
14 vehicle in California unless that vehicle is equipped with a
15 functioning ignition interlock device. No ignition interlock device
16 is required to be installed on any vehicle owned by the defendant
17 that is not driven in California.

18 (k) If a person has a medical problem that does not permit the
19 person to breathe with sufficient strength to activate the device,
20 then that person shall only have the suspension option.

21 (l) This section does not restrict a court from requiring
22 installation of an ignition interlock device and prohibiting
23 operation of a motor vehicle unless that vehicle is equipped with
24 a functioning, certified ignition interlock device for any persons
25 to whom subdivision (a) or (b) does not apply. The term of the
26 restriction shall be determined by the court for a period not to
27 exceed three years from the date of conviction. The court shall
28 notify the department, as specified in subdivision (a) of Section
29 1803, of the terms of the restrictions in accordance with
30 subdivision (a) of Section 1804. The department shall place the
31 restriction in the person's records in the department.

32 (m) For purposes of this section, "vehicle" does not include a
33 motorcycle until the state certifies an ignition interlock device that
34 can be installed on a motorcycle. Any person subject to an ignition
35 interlock device restriction shall not operate a motorcycle for the
36 duration of the ignition interlock device restriction period.

37 (n) For purposes of this section, "owned" means solely owned
38 or owned in conjunction with another person or legal entity. For
39 purposes of this section, "operates" includes operating vehicles
40 that are not owned by the person subject to this section.

(o) For the purposes of this section, bypass includes, but is not limited to, either of the following:

(1) Any combination of failing or not taking the ignition interlock device rolling retest three consecutive times.

(2) Any incidence of failing or not taking the ignition interlock device rolling retest, when not followed by an incidence of passing the ignition interlock rolling retest prior to turning the vehicle's engine off.

~~SEC. 4.—~~

SEC. 3. Section 23578 of the Vehicle Code is amended to read:

23578. In addition to any other provision of this code, if a person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

~~SEC. 5.—~~

SEC. 4. Section 23587 is added to the Vehicle Code, to read:

23587. (a) If a person is convicted of a violation of Section 23152 or 23153 and the court determines that the person had a blood-alcohol concentration of 0.15 percent or more, by weight, at arrest, the fine that otherwise would have been imposed under Section 23536, 23538, 23540, 23542, 23546, 23548, 23550, 23550.5, 23552, 23554, 23556, 23560, 23562, 23566, or 23568 shall may be doubled.

(b) ~~Fifty percent of the fine imposed under subdivision (a) shall be distributed under Section 1463.29 of the Penal Code.~~

~~SEC. 6.— Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000),~~

- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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